Applicant : Joerg Hachle
Serial No. : 09/853,243
Filed : May 11, 2001
Page : 9 of 14

Attorney's Docket No.: 12758-029001
Client Ref.: 2000P011895US

## REMARKS

Claims 1 to 4 and 6 to 20 are pending in the application, of which claims 1 and 16 are independent.[1] Favorable reconsideration and further examination are respectfully requested.

In the Office Action, the abstract was objected to for containing claim language. As shown above, Applicant has removed the offending language from the abstract. Removal of the objection thereto is therefore respectfully requested.

The Declaration was objected to for the informalities noted on page 2 of the Office Action. In response, Applicant is submitting herewith a Supplemental Declaration. Approval thereof is respectfully requested.

Turning to the art rejections, claims 1 to 4 and 8 to 14 were rejected over U.S. Patent No. 6,088.435 (Barber); and claims 5 to 7 and 15 were rejected over Barber in view of U.S. Patent No. 6,356,822 (Diaz). As shown above, Applicant has incorporated the subject matter of claim 5 into independent claim 1, and has introduced a new independent claim 16 containing functionality similar to claim 1, but structure that takes claim 16 out of the purview of §112, ¶6. Accordingly, this should be viewed as a traversal of the rejections set forth in the Office Action.

Amended independent claim 1 defines a brokering facility for recording and outputting tender information via a voice communication network. The brokering facility comprises recording means for recording, under voice menu control, tender information from tenderers calling via the voice communication network, a database for storing recorded tender information, requesting means for parties calling via the voice communication network to request, under voice menu control, tender information stored in the database, where the tender information is

---

[1] The Examiner is urged to independently confirm this recitation of the pending claims.

Applicant : Joerg Hachle
Serial No. : 09/853,243
Filed : May 11, 2001
Page : 10 of 14

Attorney's Docket No.: 12758-029001
Client Ref.: 2000P011895US

available to various parties, and outputting means for outputting requested tender information to

a requesting party. Location detecting means is included for detecting a location of a caller and

for controlling the brokering facility based on of a detected location of the caller.

As correctly noted on page 6 of the Office Action, Barber does not disclose detecting a

location of a caller and controlling a brokering facility based on of a detected location of the

caller. Diaz was cited for its alleged disclosure of this feature. In this regard, Diaz describes a

vehicle communication system that is capable of detecting a location of a vehicle, among other

things, and of determining a route between two destinations, which is uploaded to the vehicle,

and which the driver of the vehicle may select. In the Office Action, it was said that "it would

have been obvious to one of ordinary skill in the art to incorporate the teaching of Diaz into

Barber to provide the most ideal and effective route to the user in case of emergency" (page 7).

It was further said, in the Office Action, that GPS is known in the art and that it would, therefore,

have been obvious to incorporate it into the Barber system (page 7). Applicant respectfully

disagrees with these assertions for at least the following reasons.

To support a rejection based on a combination of references, there must be some

suggestion or motivation in the references themselves or in the knowledge generally available to

those of skill in the art. Applicant respectfully submits that there was no such suggestion despite

what is said, e.g., on page 7 of the Office Action. More specifically, Barber describes a system

that enables callers with similar interests to speak with one another. To this end, Barber provides

interactive telephone networking equipment 28 (see Fig. 1 of Barber), which includes a

processor 32 that performs functions, such as validating an incoming caller's credentials,

Applicant : Joerg Hachle
Serial No. : 09/853,243
Filed : May 11, 2001
Page : 11 of 14

Attorney's Docket No.: 12758-029001
Client Ref.: 2000P011895US

interacting with voice messaging center 31, and interacting with telephone bridge equipment 34

to establish and terminate connection of callers (col. 2, lines 36 to 50 of Barber).

However, there is no suggestion whatsoever, in either Barber or Diaz, to include a

location detector, such as GPS, in the Barber system. The suggestion proffered by the Office

Action, namely emergency, does not even appear to factor into the discussion in Barber or Diaz.

In other words, Applicant does not understand how a vehicle tracking system, which may include

GPS, would be used to locate callers in the Barber system, who do not even appear to be using

mobile telephones, or why the location of such callers is suggested in emergency situations.

Furthermore, processor 32 uses a subscriber profile 50 (see below), which contains

information about the subscriber, in order to link the subscriber to others with like interests.

## FIG.2

50

| | |
|---|---|
| SUBSCRIBER IDENTIFIER | 52 |
| PIN | 54 |
| NAME | 56 |
| ADDRESS | 58 |
| PHONE NUMBER | 60 |
| AGE | 62 |
| GENDER | 64 |
| INTEREST #1 | 66 |
| PRE-ARRANGED MESSAGE DELIVERY | 81 |
| INTEREST #2 | 68 |
| NUMBER OF TIMES CALLED | 70 |
| BILLING PREFERENCE | 72 |
| INBOUND CALL INDICATOR | 74 |
| PRIVATE/ PUBLIC PREFERENCE | 76 |
| VIDEO INDICATOR | 78 |
| MISC. INFORMATION | 80 |

Applicant : Joerg Hachle
Serial No. : 09/853,243
Filed : May 11, 2001
Page : 12 of 14

Attorney's Docket No.: 12758-029001
Client Ref.: 2000P011895US

As clearly shown above, the subscriber profile includes the address (i.e., location) of the

subscriber (58). As such, there would be no need to include a location detecting means in the

system of Barber in order to locate an individual (e.g., in the case of emergency), since the

Barber system already knows the location of each individual.

Regarding GPS, Applicant notes that, even if GPS were known, there is no suggestion at

all in the art or general knowledge to detect a position of a caller on the voice communication

network of Barber, as indicated in the Office Action. In fact, GPS would provide an additional

layer of complexity, and would appear to require a redesign of the Barber circuitry, something

that is clearly not suggested. Should the Examiner persist in arguing the incorporation of GPS

into Barber, the Examiner is respectfully requested to explain how it would be incorporated, and

why it would have been obvious to one of ordinary skill in the art to do so.

For at least the foregoing reasons, Applicant submits that the rejection over Barber and

Diaz is improper as a matter of law. Claim 1 is therefore believed to be patentable. New

independent claim 16 includes features that are similar to claim 1 and is also believed to be

patentable for at least the same reasons noted above with respect to claim 1.

The dependent claims each define patentable features of the invention. For example,

dependent claim 6 recites that the recording means records, under voice menu control, tender

information from a tenderer based on a detected location of the tenderer. There is no disclosure

or suggestion in Barber or Diaz to record, under voice menu control, based on a detected

location. At best, Diaz shows detecting a vehicle and obtaining information from that vehicle.

But, there is no disclosure of the type of interaction required by claim 6, e.g., through a voice

Applicant : Joerg Hachle
Serial No. : 09/853,243
Filed : May 11, 2001
Page : 13 of 14

Attorney's Docket No.: 12758-029001
Client Ref.: 2000P011895US

control menu. Claim 7 recites that the requesting means requests, under voice menu control, tender information based on a detected location of the interested party. Again, this is not disclosed or suggested by the art. At best, the art shows data transfer to/from a vehicle. It does not show requesting information based on a detected location or under voice menu.

In this regard, each dependent claim partakes of the novelty of its corresponding independent claim and, as such, each not been discussed specifically herein.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Applicant's attorney can be reached at the address shown below. Telephone calls regarding this application should be directed to 617-521-7896.

Please apply any charges due for this response, which are not already covered by check, to deposit account 06-1050, referencing Attorney Docket No. 12758-029001.

Applicant : Joerg Hachle
Serial No. : 09/853,243
Filed : May 11, 2001
Page : 14 of 14

Attorney's Docket No.: 12758-029001
Client Ref.: 2000P011895US

Respectfully submitted,

Date: August 7, 2006

Paul A. Pysher
Reg. No. 40,780

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

029.doc